



Federal Highway Administration

[Docket No. FHWA-2020-0010]

Final Re-Designation of the Primary Highway Freight System (PHFS)

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; response to comments.

SUMMARY: This notice announces the re-designated PHFS to meet the statutory requirements of the authorizing law. This notice presents a final, re-designated PHFS, provides summary analysis of input received for PHFS re-designation, FHWA responses to comments, the methodology applied, and changes made for the re-designation of the PHFS.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Birat Pandey, birat.pandey@dot.gov, 202-366-2842, Office of Freight Management and Operations (HOFM-1), Office of Operations, FHWA, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background:

Congress established a new National Highway Freight Program (NHFP) in 23 United States Code (U.S.C.) 167 to improve the efficient movement of freight on the National Highway Freight Network (NHFN) and support several goals. The law required the FHWA Administrator to strategically direct Federal resources and policies toward improved performance of the network. The NHFP provides formula funding apportioned annually to States, for use on the NHFN. The definition of the NHFN is established under 23 U.S.C. 167(c) and consists of four separate highway network components: the

PHFS; Critical Rural Freight Corridors (CRFC); Critical Urban Freight Corridors (CUFC); and those portions of the Interstate System that are not part of the PHFS. The initial designation of the PHFS was identified during the designation process for the previously designated Primary Freight Network (PFN) under section 23 U.S.C. 167(d), as in effect on the day before the date of enactment of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94).

The FHWA Administrator is required to re-designate the PHFS every 5 years. Each re-designation is limited to a maximum 3 percent increase in total mileage of the system per 23 U.S.C. 167(d)(2)(B). In re-designating the PHFS, to the maximum extent practicable, the FHWA Administrator must use measurable data to assess the significance of goods movement, including consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains. 23 U.S.C. 167(d)(2)(C). Per the statute, in re-designating the PHFS, the Administrator shall provide an opportunity for State Freight Advisory Committees (SFAC), as applicable, to submit additional miles for consideration. 23 U.S.C. 167(d)(2)(D). In re-designating the PHFS, the Administrator shall consider the factors outlined in 23 U.S.C. 167(d)(2)(E). Those factors include: changes in the origins and destinations of U.S. freight movement; changes in the percent of annual daily truck traffic on principal arterials; changes in the location of key facilities; land and water ports of entry; access to energy exploration, development, installation, or production areas; access to other freight intermodal facilities, including rail, air, water, and pipeline facilities; the total freight tonnage and value moved on highways; significant freight bottlenecks; the significance of goods movement on principal arterials, including consideration of global and domestic supply chains; critical emerging freight corridors and critical commerce corridors; and network connectivity.

PHFS and Use of NHFP Funds

Congress established NHFP in 23 U.S.C. 167 to improve the efficient movement of freight on the NHFN and support several goals. Additional details on the NHFP are available at: <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/nhfp.cfm>. A State shall obligate funds apportioned to the State under 23 U.S.C. 104(b)(5) to improve the movement of freight on the NHFN pursuant to 23 U.S.C. 167. A State with PHFS mileage of less than 2 percent of the national total PHFS mileage (Low PHFS Mileage States) may obligate NHFP funds for projects on any component of the NHFN. A State with PHFS mileage greater than or equal to 2 percent of the national PHFS total (High PHFS Mileage State) may obligate its NHFP funds for projects on the PHFS, CRFCs, and CUFCs. States and in certain cases, Metropolitan Planning Organizations (MPO), are responsible for designating public roads for the CRFCs and CUFCs.

Final Re-designation of the PHFS:

With this Notice, FHWA officially re-designates the PHFS. The re-designated PHFS consists of 41,799 centerline miles, including 38,014 centerline miles of Interstates and 3,785 centerline miles of non-Interstate roads. Maps and tables exhibiting roads included in the PHFS re-designation will be available by State, here: https://ops.fhwa.dot.gov/freight/infrastructure/ismt/nhfn_states_list.htm.

Analysis of the comments for Re-designation of the PHFS:

On August 26, 2021, at 86 FR 47705, FHWA published a Notice requesting information pertaining to re-designation of the PHFS and inviting comments for PHFS changes. This Notice explained statutorily required criteria for the PHFS re-designation, described available additional mileage for PHFS re-designation as required by the law, and presented results from FHWA preliminary analysis for the re-designation. The Notice also outlined data submission criteria for identifying PHFS changes for FHWA consideration, three options considered by FHWA for allocation of available additional PHFS mileage, and FHWA's recommendation to include the technical corrections to the

PHFS for the re-designation. The FHWA did not recommend removing previously designated routes from the PHFS unless they are no longer eligible for use by trucks. The FHWA requested comments for the PHFS re-designation from SFACs, as required by the statute, and from other interested parties. The Notice requested that a State submitting routes or feedback for consideration in the PHFS re-designation provide a letter of support from or on behalf of their SFAC. In addition, FHWA performed stakeholder outreach activities to disseminate information about the Notice to solicit public comments pertaining to re-designation of the PHFS.

In response to stakeholder requests for additional time for submission of comments to the docket, FHWA extended the public comment period from October 25, 2021, to December 15, 2021 (86 FR 58998). The FHWA received 30 responses from 25 States and from the District of Columbia, which included 134 discrete comments. Fifty-six percent of discrete comments came from State departments of transportation (State DOT) on behalf of SFACs.

The FHWA received requests for a total of 1,767 miles of roadway changes for PHFS re-designation. Ninety three percent (1,641 miles) of the requested changes proposed additions to the PHFS and 7 percent of the mileage requests were for removal to the existing PHFS. About one third of the mileage changes for the re-designation were requested by High PHFS Mileage States and the remaining changes were requested from Low PHFS Mileage States.

The FHWA outlined several examples for allocating additional PHFS mileage and the challenges for optimal allocation of available limited PHFS mileage. Respondents commented on the options, and also presented other preferred options such as proportional allocation of additional PHFS mileage to each State based on the existing PHFS mileage total for that State. While some respondents preferred equal allocation of additional PHFS mileage among all States or equal distribution only among High PHFS

Mileage States, many of them requested new PHFS mileage well above equal allocation thresholds, without prioritizing their list of changes. When combined, the majority of the respondents preferred either a technical correction to the current PHFS or did not have a clear preference.

Comments for PHFS Re-designation and FHWA Response:

The FHWA appreciates the comments relating to recommended statutory changes and request for additions, deletions, or modifications for PHFS re-designation. The majority of the comments included the specificity necessary to make modifications to the network and met the PHFS re-designation criteria. The FHWA attempted to accommodate all requests that met PHFS re-designation criteria to the maximum extent practicable. In re-designating the PHFS, FHWA provided an opportunity for SFACs, as applicable, to submit additional miles for consideration. The sections below summarize FHWA's responses to the comments received and the methodology applied for final PHFS re-designation.

Role of SFACs for Re-Designation of the PHFS

A number of respondents expressed that convening an SFAC and conducting coordination with committee members for the purpose of PHFS re-designation is burdensome and strains the limited capacity and resources available to States on this item of limited scope. Respondents requested changes to the current statutory requirement for SFACs input for re-designation of PHFS through future reauthorization or legislative changes for soliciting inputs for re-designation directly with State DOTs and MPOs. Respondents also noted that there is no statutory requirement for States to have a SFAC and Congress created them with an intent to advise States. Therefore, FHWA should not give greater weight to the input from SFACs than the views of the States itself for re-designation of the PHFS.

In response, FHWA recognizes that establishment of SFACs is not required by the statute and that States have significant flexibility in creating SFACs. However, FHWA notes that SFACs provide a platform for collaboration between public and private stakeholders to identify critical freight infrastructure and that this input is beneficial for freight planning. The FHWA encouraged States to coordinate with SFACs for re-designation of the PHFS but did not give priority consideration to SFACs views over the views of the States for PHFS re-designation. Pursuant to 23 U.S.C. 167(d)(2)(D), in redesignating the PHFS, the Administrator is obligated to provide an opportunity for SFACs, as applicable, to submit additional miles for consideration.

Coverage Gaps for PHFS Re-designation

The FAST Act established 41,518 miles of PHFS and required re-designation of the PHFS every 5 years, with a provision for a maximum 3 percent mileage increase of the PHFS. Many comments expressed concern over the gaps in identification of critical freight network segments, due to limited mileage coverage of the PHFS and inadequate provision for PHFS mileage increase through re-designation. Respondents suggested several solutions for mitigating these mileage gaps, including changing the statutory provisions to allow for automatic designation of the entire Interstate System as PHFS, increasing the supplemental PHFS mileage that can be used during re-designation, or increasing the overall mileage of PHFS.

The FHWA recognizes that, in some cases, statutory limits on PHFS mileage could prevent identification as PHFS of all roadways critical for freight movement in States. This mileage limitation for PHFS designation could be mitigated by States designating other freight-critical routes as CRFCs and CUFCs. States, and in certain cases, MPOs, are responsible for designating public roads for the CRFCs and CUFCs; this designation authority can be expanded by removing prior designations after a project

has been completed and reusing the mileage allowance on new segments, also known as designating on a rolling basis.

Furthermore, the Bipartisan Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58) (Nov. 15, 2021)) increased roadway mileage thresholds for the designation of CRFCs from 150 to 300 miles or 20 percent of the PHFS for that State, whichever is greater, and increased CUFCs mileage thresholds from 75 miles to 150 miles or 10 percent of the PHFS for that State, whichever is greater. The BIL also created an additional category, “Rural States,” that establishes an even higher CRFCs mileage threshold for States with a population per square mile density that is less than the national average. The Rural States threshold for CRFCs is 600 miles. While it is possible that some States may still encounter a mileage challenge in identifying all of the freight-critical roadways in the State as PHFS, FHWA believes States have needed flexibility to prioritize roadways for designation to allow the State to program NHFP funds where needed.

- *Include statutory provisions for automatic designation of the entire Interstate System as PHFS*

The PHFS provides a system of roadways intended to reflect the most critical highway portions of the U.S. freight transportation system. Interstates that are not designated as PHFS are, by default, part of the NHFN and are called the Non-PHFS Interstate component of the NHFN. If a State’s intent is to achieve eligibility to use NHFP funding, NHFN roadways are eligible for NHFP funds except for non-PHFS Interstate segments in High PHFS Mileage States. The FHWA notes that this is the structure that was created by Congress and FHWA does not have the authority for automatic designation of entire Interstate System as PHFS.

- *Change requirements for PHFS mileage increase for re-designation process*

Statutory language at 23 U.S.C. 167(d)(2)(B) specifies that each re-designation is limited to a maximum 3 percent increase in the total mileage of the system. The FHWA notes that the mileage limitation for PHFS designation can be mitigated by designating other freight-critical segments of roadways for States as CRFCs and CUFCs, made possible with the expansion of CRFCs and CUFCs mileage allowances provided by the BIL.

- *Modify provisions to increase the overall mileage of PHFS.*

The PHFS provides a system of roadways intended to reflect the most critical highway portions of the U.S. freight transportation system. If a desired addition to the network is necessary to achieve eligibility to use NHFP funding or for other purposes specific to a State (for example, to gain eligibility to use discretionary grant funding that requires NHFN designation), States and MPOs may add roadway segments to the NHFN using the process to designate CRFCs and CUFCs. Increased roadway mileage thresholds for the designation of CRFCs and CUFCs from the BIL expand flexibility to identify critical freight infrastructure as a component of the NHFN. The initial designation of the PHFS was set by the FAST Act as the 41,518-mile network identified during the designation process for the Moving Ahead for Progress in the 21st Century Act highway-only PFN under 23 U.S.C. 167(d). The FHWA does not have the authority to increase the mileage.

Expanding NHFP Funds Eligibility for NHFN

Respondents recommended changing the statute to expand NHFP funds eligibility for all portions of the NHFN. High PHFS Mileage States would then be allowed to use their NHFP funds for projects on the PHFS, CRFCs, and CUFCs, as well as all Interstates. Currently, non-PHFS Interstates of the NHFN are eligible for NHFP funds only for Low PHFS Mileage States.

The FHWA recognizes that the statutory language limits High PHFS Mileage States ability to program NHFP funds on all portions of the NHFN. Currently, a State in which the percent of PHFS mileage is greater than or equal to 2 percent of the national total may only use its NHFP funds for projects on the PHFS, CUFCs, and CRFCs unless they add designation for non-PHFS Interstates through the use of CRFCs and CUFCs.

Roadway Specific Additions, Deletion and Adjustments for PHFS Re-designation

About two-thirds of the discrete comments received requested addition of PHFS mileage totaling 1,641 miles. Of those, 65 percent were for Interstate miles and 32 percent were principal arterials. The remaining 3 percent of proposed additions were for other roadways of lower functional classifications. Sixty-three percent of miles requested for addition were from Low PHFS Mileage States, which sought 608 miles of Interstates and 401 miles of principal arterials. These Interstates submitted for PHFS re-designation are by default a part of the NHFN and are automatically eligible for NHFP funding by Low PHFS Mileage States. More than one third of the PHFS mileage additions were requested by High PHFS Mileage States, which included requests for the addition of 457 Interstate miles and 131 miles of principal arterials. These requests for additional mileage range from less than one quarter mile to hundreds of miles of roadway segments, covering a large portion of a State.

About one quarter of comments received requested removal or other technical correction of the existing PHFS. More than half of these changes are for roadway segments that are less than one mile long. About 70 percent of the mileage (86 miles) submitted for removal from PHFS designation were for toll roads. Other changes related to adjustments to correctly identify intermodal connectors, fix mapping errors, and to update network connectivity.

A number of requested PHFS additions included fragmented roadway segments that did not provide continuity of the PHFS and did not meet PHFS re-designation

criteria. These requests for PHFS additions would have required significant mileage to connect to the PHFS network. The PHFS provides a system of roadways that is most critical for freight movement. Network connectivity is a consideration for PHFS re-designation and is necessary to provide continuity of PHFS roadways. To provide system-level network connectivity, one end of a PHFS roadway should connect with existing PHFS roadways. In response, FHWA suggests that if a desired addition to the network is necessary to achieve eligibility to use NHFP funding, States and MPOs may add a stand-alone segment to the NHFN using the process to designate CRFCs and CUFCs. The CUFCs and CURCs do not need to connect to the PHFS and are designated separately from the PHFS re-designation, on a rolling basis, using the mileage allotted to a State.

A number of respondents from Low PHFS Mileage States identified Interstate mileage to be added as PHFS to expand roadways eligible for NHFP funding. Interstates that are not designated as PHFS are by default part of NHFN and are identified as Non-PHFS Interstates, a component of the NHFN. As such, the addition to the network is unnecessary for Low PHFS Mileage States to achieve eligibility to use NHFP funding as these Non-PHFS Interstates are automatically eligible for investment of NHFP by Low PHFS Mileage States. Designating all Interstates in those States as PHFS would not provide additional flexibility for States for programing NHFP funds.

Respondents identified needs to provide a greater emphasis on designating arterial highways, Interstates that cross rural States and other areas, to increase resiliency of PHFS by ensuring redundancy in the system. As a result, respondents identified many large corridors including roadway traversing an entire State for PHFS re-designation. In response, FHWA reiterates that PHFS highways are intended to reflect the most critical highway portions of the U.S. freight transportation system, determined by measurable and objective national data. If a desired addition to the network is necessary to achieve

eligibility to use NHFP funding or for other purpose specific to a State, States and MPOs may add a stand-alone segment to the NHFN using the process to designate CRFCs and CUFCs. Increased roadway mileage thresholds for the designation of CRFCs and CUFCs, provided by the BIL, expand the flexibility for States to identify critical freight infrastructure as a component of the NHFN. The FHWA attempted to accommodate requested mileage for PHFS re-designation that met re-designation criteria to the maximum extent practicable.

Respondents also requested removal of self-financed toll facilities from PHFS by citing their interpretation of the statute that toll roads are an ineligible use for NHFP funds. The FHWA clarifies that toll facilities are eligible for NHFP funds and did not exclude toll facilities designated as PHFS for PHFS re-designation unless those facilities have been deemed by the States as no longer eligible for use by trucks. Toll roads using NHFP funding would necessarily become federalized, however, and need to adhere to all Title 23 requirements.

The FHWA also conducted a separate review of the network for technical corrections and to improve mapping accuracy of the PHFS using State DOTs' linear referenced roadway network data that are submitted as the spatial route information for all roads in the States. The FHWA did not remove previously designated routes from the PHFS unless they are no longer eligible for use by trucks. This ensures continued alignment with the State Freight Plans completed by all States and the District of Columbia pursuant to 49 U.S.C. 70202, which were based in part on the existing PHFS network and funding eligibilities of NHFN routes.

The FHWA made a number of corrections to PHFS, including correction of roadway mapping data, updates to roadway descriptions, corrections to represent new bypasses, adjustments to achieve network connectivity, and exclusion of roadways that are not open to public. Corrections were made to reflect change in access and network

connectivity such as for facilities that are part of military base or where roadways have checkpoints to access ports.

Section 167(d)(2) of title 23, U.S.C. requires the FHWA Administrator to re-designate PHFS every 5 years and provides for a maximum 3 percent increase in the total mileage of the system. Per this Notice, the newly re-designated PHFS will be available in map format on the following site:

https://ops.fhwa.dot.gov/freight/infrastructure/ismt/nhfn_states_list.htm.

(Authority: 23 U.S.C. 167(d))

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Federal Highway Administration.

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